

Senate Bill No. 309

CHAPTER 470

An act to add Sections 1596.785, 1596.7915, and 1596.862 to the Health and Safety Code, relating to care facilities.

[Approved by Governor October 4, 2011. Filed with
Secretary of State October 4, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 309, Liu. Child day care facilities: schoolage child care centers: nonminor students.

Existing law, the California Child Day Care Facilities Act, administered by the State Department of Social Services, provides for the licensure and regulation of child day care facilities, as defined. Willful or repeated violation of these provisions is a misdemeanor. The act defines a child as a person who is under 18 years of age who is being provided care and supervision in a child day care facility, with specified exceptions. Under existing law, a child day care facility is authorized to provide nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

Existing law provides for educational programs for persons with exceptional needs. Existing law includes within the definition of an individual with special needs a person between 19 and 21 years of age, who is enrolled in or eligible for a special education program prior to his or her 19th birthday, and who has not yet completed his or her prescribed course of study, has not met proficiency standards, or has not graduated from high school with a regular high school diploma. Existing law provides that a person who becomes 22 years of age during the months of January to June, inclusive, while participating in one of these special education programs, as specified, may continue his or her participation in the program for the remainder of the current fiscal year, including any extended school year program for individuals with exceptional needs established pursuant to specified state and federal law.

This bill would authorize the department to approve or deny a written request from a schoolage child care center, as defined, for enrollment or retention of a nonminor student, as defined, at the schoolage child care center if the department makes a specified determination. This bill would require that, if a request is submitted to the department at least 30 days prior to the child's 18th birthday, the nonminor student be retained at a schoolage child care center, unless the request is denied in writing. This bill would prohibit a nonminor student from being enrolled at a schoolage child care center until the request is approved in writing by the department.

By changing the definition of an existing crime with respect to the California Child Day Care Facilities Act, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1596.785 is added to the Health and Safety Code, immediately following Section 1596.78, to read:

1596.785. "Nonminor student" means a person 18 years of age or older who qualifies as an individual with exceptional needs, as defined in Section 56026 of the Education Code, and who qualifies for services from a regional center for persons with developmental disabilities, as a person with a developmental disability as defined in subdivision (a) of Section 4512 of the Welfare and Institutions Code. The terms "child," "children," or "minor," as used in this chapter or Chapter 3.5 (commencing with Section 1596.90), may also include a nonminor student enrolled or retained at a schoolage child care center.

SEC. 2. Section 1596.7915 is added to the Health and Safety Code, immediately following Section 1596.791, to read:

1596.7915. "Schoolage child care center" means a day care center or part of a day care center that provides nonmedical care and supervision, personal services, or assistance essential for sustaining the activities of daily living or for the protection of schoolage children or nonminor students, or both, in a group setting for less than 24 hours per day.

SEC. 3. Section 1596.862 is added to the Health and Safety Code, immediately following Section 1596.861, to read:

1596.862. (a) The department may approve or deny a written request for enrollment or retention of a nonminor student at a schoolage child care center. The department may approve a request for enrollment or retention of a nonminor student if the department determines the schoolage child care center can meet the needs of the nonminor student and enrollment or retention of the nonminor student is not detrimental to the health and safety of the nonminor student.

(b) (1) For the purposes of retention, if a request, as described in subdivision (c), is submitted to the department at least 30 days prior to the child's 18th birthday, the nonminor student shall be retained at a schoolage child care center, unless the request is denied in writing by the department.

(2) For the purposes of enrollment, a nonminor student shall not be enrolled at a schoolage child care center until the request, as described in subdivision (c), is approved in writing by the department.

(c) A written request from a schoolage child care center for enrollment or retention of a nonminor student shall include all of the following:

(1) Confirmation that the licensee conducted a personal interview of the nonminor student or the nonminor student's authorized representative, if applicable, and a written statement from the licensee that assesses both of the following:

(A) Whether the enrollment or retention of the nonminor student would present a threat to the physical health, mental health, or safety of the nonminor student and others at the schoolage child care center.

(B) Whether the needs of the nonminor student can be met by the schoolage child care center.

(2) A copy of the nonminor student's current individualized education program and any other information requested by the department.

(d) A nonminor student enrolled or retained pursuant to this section shall be exempt from the fingerprinting and criminal record clearance requirements in Section 1596.871 and otherwise applicable regulations.

(e) An approved request may be terminated by the department and a citation of deficiency, an assessment of civil penalties, or discipline of the licensee pursuant to Section 1596.885 or Section 1596.886, or any combination thereof, may result if the licensee fails to comply with applicable laws.

(f) The department may adopt regulations necessary to implement this section.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.